

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eliana Behar	Team: Squad #01	CCRB Case #: 202301370	<input checked="" type="checkbox"/> Force <input type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury	
Incident Date(s) Wednesday, 02/15/2023 4:14 PM	Location of Incident: Castle Hill Avenue and Westchester Avenue	18 Mo. SOL 8/15/2024	Precinct: 43	
Date/Time CV Reported Thu, 02/16/2023 10:34 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 02/16/2023 10:34 AM	

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Dino Vucetovic	17924	959347	043 DET
2. PO Anelsy Nunez	12337	960192	043 PCT
3. PO Allen Tedaldi	20510	959291	043 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Ricardo Urena	24715	962849	043 PCT
2. PO Alfred Rugel	27698	965485	043 PCT
3. PO Michele Garcia	19457	959652	043 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Anelsy Nunez	Force: Police Officer Anelsy Nunez struck § 87(2)(b) with a radio.	
B . PO Dino Vucetovic	Abuse: Police Officer Dino Vucetovic stopped § 87(2)(b)	
C . PO Allen Tedaldi	Force: Police Officer Allen Tedaldi used physical force against § 87(2)(b)	
D . PO Dino Vucetovic	Abuse: Police Officer Dino Vucetovic detained § 87(2)(b)	

## Case Summary

On February 16, 2023, § 87(2)(b) filed this complaint over the phone with the CCRB on behalf of her 17-year-old son, § 87(2)(b).

On February 15, 2023, at approximately 4:14pm at Castle Hill Avenue and Westchester Avenue in the Bronx, Police Officer Anelsy Nunez, of the 43<sup>rd</sup> Precinct, hit § 87(2)(b) with her radio (**Allegation A: Force**—§ 87(2)(g) PO Dino Vucetovic stopped § 87(2)(b) (**Allegation B: Abuse of Authority**—§ 87(2)(g) PO Allen Tedaldi forcefully pulled § 87(2)(b) (**Allegation C: Force**—§ 87(2)(g) PO Vucetovic detained § 87(2)(b) (**Allegation D: Abuse of Authority**—§ 87(2)(g) § 87(2)(b) was arrested for criminal possession of stolen property, resisting arrest, obstructing governmental administration, and unauthorized use of a vehicle. § 87(2)(b).

The investigation obtained 58 BWC videos for this incident (Board Reviews 01-04). The investigation also obtained cellphone footage (Board Reviews 07-08).

## Findings and Recommendations

### **Allegation (A) Force: Police Officer Anelsy Nunez struck § 87(2)(b) with a radio.**

It is undisputed that PO Vucetovic and PO Nunez performed a vehicle stop on what they suspected to be a stolen vehicle, and § 87(2)(b) fled on foot from PO Vucetovic and PO Nunez. PO Vucetovic took § 87(2)(b) to the ground and PO Nunez assisted in arresting § 87(2)(b).

§ 87(2)(b) was walking with six of his friends on Castle Hill Avenue when he noticed several police officers in the street. He observed two officers on the ground with an unknown male. § 87(2)(b) observed PO Nunez, who was holding the male face down on the floor, repeatedly hit him on the back of his head with her radio. § 87(2)(b) then saw officers place this person under arrest and escort him to a police vehicle (Board Review 06).

§ 87(2)(b) was uncooperative in providing a statement to the CCRB and the investigation was therefore unable to obtain an unsealing order from him. As a result, § 87(2)(b) arrest photo could not be obtained.

In PO Nunez's BWC (Board Review 03), at 01:44, she is performing a vehicle stop and § 87(2)(b) is seated in the rear passenger side of the vehicle. At 01:53 § 87(2)(b) exits the driver's side of the vehicle and starts running away from the vehicle. PO Vucetovic immediately chases after him and grabs ahold of § 87(2)(b) by his jacket and falls forward onto the ground, landing on top of § 87(2)(b). At 01:55 § 87(2)(b) gets on his knees and it appears that he is trying to get up from the ground and PO Vucetovic, who remains on top of § 87(2)(b) tells him not to move while § 87(2)(b) is moving his arms and legs. At 02:00 PO Nunez approaches § 87(2)(b) and PO Vucetovic and she is heard calling for backup. At 02:05 PO Nunez gets on the floor and assists in restraining § 87(2)(b) and her BWC falls off and is on the ground facing upward. At 02:06 PO Nunez is on top of § 87(2)(b) who appears to be trying to get up from the ground and PO Nunez has her right arm around his shoulder and right hand on his chest. PO Nunez is holding onto her radio in her left hand. At 02:07 the officers are out of the BWC viewpoint. At 02:09 an officer's arm is seen in the air and they appear to be holding an item in their hand. This officer makes a swinging motion twice with their arm. Due to the angle of the BWC facing upward on the ground, only the officer's arm is visible and it is unknown whose arm this is, what object they are holding, and if this object makes contact with § 87(2)(b). PO Nunez does not pick up her BWC until 03:33 when § 87(2)(b) is

already standing in handcuffs. PO Vucetovic's BWC (Board Review 02) falls off of him as soon as he makes contact with § 87(2)(b) when § 87(2)(b) flees. At 03:33 PO Nunez picks up PO Vucetovic's BWC from the ground and § 87(2)(b) is in handcuffs standing with PO Vucetovic. § 87(2)(b) does not appear to have any obvious injuries.

Cellphone video footage (Board Review 07), which was recorded by § 87(2)(b) friend from the top of a subway platform where there was a window facing the street, shows PO Vucetovic and PO Nunez on the ground struggling with § 87(2)(b). Between 00:03-00:09 the camera is not facing the incident. At 00:10 the camera is facing the incident however it is far away and blurry. A uniformed bald white male, who the investigation identified as a New York City Transit worker, runs towards PO Vucetovic and PO Nunez and assists in restraining § 87(2)(b). At 00:11 the person videotaping zooms in on the incident and PO Nunez appears to be lying horizontally across § 87(2)(b) upper back while PO Vucetovic is positioned above his lower body. At no point is PO Nunez seen hitting § 87(2)(b) with her radio, though the video is not a complete recording of the interaction.

The TRI report notes that PO Vucetovic conducted a forcible takedown of § 87(2)(b). PO Vucetovic and PO Nunez wrestled on the ground with § 87(2)(b) to keep him from fleeing. PO Vucetovic used two hand strikes at the subject's torso. An unknown male assisted with the apprehension who had NYCT on his garment. § 87(2)(b) alleged that PO Nunez beat him with her radio though there is no indication where she struck him. The report notes that § 87(2)(b) suffered minor abrasions to his nose and forehead which appear to be consistent with striking the pavement after the takedown (Board Review 05).

PO Nunez testified that she and PO Vucetovic took § 87(2)(b) to the ground. While § 87(2)(b) was face down on the ground PO Nunez used her left hand to hold onto § 87(2)(b) while her right hand was holding onto her radio to call for backup. § 87(2)(b) was physically resisting by wiggling his body and trying to break from the officer's hold. PO Nunez stated that her radio never came into contact with § 87(2)(b) nor did she ever use her radio to hit § 87(2)(b) (Board Review 10). PO Vucetovic stated that at no point did he or PO Nunez use their radio to strike § 87(2)(b) (Board Review 09).

§ 87(2)(g)

**Allegation (B) Abuse of Authority: Police Officer Dino Vucetovic stopped § 87(2)(b)**

**Allegation (C) Force: Police Officer Allen Tedaldi used physical force against § 87(2)(b)**

**Allegation (D) Abuse of Authority: Police Officer Dino Vucetovic detained § 87(2)(b)**

§ 87(2)(b) knew § 87(2)(b) from school. § 87(2)(b) yelled to § 87(2)(b) to call § 87(2)(b) family for him. At this point, § 87(2)(b) heard an officer say "grab him" and PO Nunez walked up to § 87(2)(b) who was standing on the sidewalk, and two male officers approached § 87(2)(b) and placed him in handcuffs. PO Tedaldi forcefully pulled § 87(2)(b) bicep and brought him from the sidewalk into the street. § 87(2)(b) did not resist in any way. Officers

brought § 87(2)(b) back to the stationhouse and placed him in a holding cell for four hours. At the stationhouse officers informed him that they brought him back to the stationhouse because § 87(2)(b) was arrested for stealing a vehicle and they thought he § 87(2)(b) may have been with § 87(2)(b) when he stole the vehicle (Board Review 06).

PO Vucetovic stated that he noticed a white sedan double parked at a bus stop with no rear license plate. PO Vucetovic and PO Nunez approached the vehicle and PO Vucetovic observed § 87(2)(b) seated in the backseat of the vehicle. There was no one else inside of the vehicle and all the doors were closed. PO Vucetovic walked around the vehicle and noticed that the steering column of the vehicle was broken, furthering his belief that this was a stolen vehicle. § 87(2)(b) fled from the vehicle and PO Vucetovic arrested him. While PO Vucetovic was standing with § 87(2)(b) he observed § 87(2)(b) who was standing on the sidewalk, call out to § 87(2)(b) by name and heard him tell § 87(2)(b) something about calling his mom and getting his belongings. § 87(2)(b) did not make any comments to § 87(2)(b) or to the officers stating that he was involved in this incident, rather it was his proximity to the incident and the fact that he knew § 87(2)(b) and was engaging with him that led PO Vucetovic to believe he may have been involved in the incident. PO Vucetovic believed that § 87(2)(b) may have been involved with the vehicle theft since there was no one inside the front driver or passenger seat of the vehicle when PO Vucetovic approached the vehicle. PO Vucetovic pointed § 87(2)(b) out to PO Nunez to handcuff and take back to the stationhouse to investigate his possible involvement with the stolen vehicle. PO Vucetovic did not see any officers use force on § 87(2)(b). After bringing § 87(2)(b) and § 87(2)(b) back to the stationhouse, officers confirmed that the vehicle was stolen, canvassed the area of the incident, and received surveillance footage that showed § 87(2)(b) had been in the stolen vehicle with three other males. They determined that § 87(2)(b) was not involved with the incident. PO Vucetovic voided his arrest and released him (Board Review 09).

PO Nunez stated that she believed § 87(2)(b) was an associate of § 87(2)(b) because he was the only individual in the crowd during the incident who was speaking to § 87(2)(b). PO Nunez was instructed by an officer to stop § 87(2)(b). PO Nunez stated that no force was used and she did not see any officer pull § 87(2)(b) bicep (Board Review 10).

PO Nunez's BWC (Board Review 03), at 03:43 shows § 87(2)(b) who is in handcuffs, yelling to a person standing on the sidewalk saying, "tell § 87(2)(b) I'm getting locked up" and PO Vucetovic points towards the individual § 87(2)(b) is speaking to. There is loud music playing in the background and around 20 people congregated on the sidewalk recording on their cellphones. It cannot be heard what, if anything, this person is yelling to § 87(2)(b). At this point PO Nunez shifts her body so she is facing the sidewalk and § 87(2)(b) who is wearing gray sweatpants, a black jacket, and blue and black Nikes, is standing in the street. At 03:50 PO Nunez approaches § 87(2)(b) and grabs him by the front of his jacket and brings him into the street towards the police vehicle. The bystanders on the sidewalk immediately start yelling. This is also captured from a different angle in PO Tedaldi's BWC (Board Review 12). At 01:00 PO Tedaldi steps out of his vehicle and PO Vucetovic is pointing towards § 87(2)(b) who is standing on the street and appears to be verbally engaging with § 87(2)(b). § 87(2)(b) immediately walks back to the sidewalk and PO Nunez grabs him by his jacket and PO Nunez walks with § 87(2)(b) back into the street towards the police vehicle as he is yelling "I'm good." At 01:10 PO Tedaldi grabs § 87(2)(b) by each of his upper arms, brings each of his arms behind his back and handcuffs him as he is standing next to a police vehicle. § 87(2)(b) appears to be physically compliant and PO Tedaldi does not appear to squeeze or pull on his bicep with any great force. At 02:49 § 87(2)(b) asks the officers why they are taking him and tells them he is going to night school. He does not complain of any pain. At 02:53 he is placed inside the police vehicle and driven back to the stationhouse.

The command log notes that PO Vucetovic arrested § 87(2)(b) at 16:25, generating an arrest number, and voided his arrest at 19:30 and he was released to his mother. The command log does not list any charges associated with § 87(2)(b) voided arrest (Board Review 13). PO Vucetovic's memo book notes that at 18:30 he was awaiting video canvass and that at 19:30 he voided an arrest for § 87(2)(b) PO Vucetovic notes that § 87(2)(b) was an associate of § 87(2)(b) and was in close proximity to the stolen vehicle (Board Review 14).

According to *People v. DeBour*, 40 N.Y.2d 201 (1976), an officer can stop an individual when he reasonably suspects that the individual is committing, has committed, or is about to commit a crime. An officer can arrest and take an individual into custody when the officer has probable cause to believe the person has committed a crime (Board Review 11).

Patrol Guide Procedure 212-11 states that a Level III encounter is an encounter where a reasonable person would not feel free to disregard the officer and walk away. The Patrol Guide specifies that a police officer may detain the person while an expeditious investigation is conducted to determine if there is probable cause to arrest the person (Board Review 18).

§ 87(2)(g)  
While PO Vucetovic observed § 87(2)(b) at the location of the incident and calling out to § 87(2)(b) by name, § 87(2)(b) did not make any statements that alluded to his involvement in the incident and was not observed in the vehicle or otherwise committing a crime. Although PO Vucetovic believed that others were involved in the car theft, § 87(2)(g)

Additionally, PO Vucetovic instructed officers to place § 87(2)(b) under arrest to investigate whether he was involved with the vehicle theft. § 87(2)(b) was subsequently taken back to the stationhouse and held in a holding cell for three hours, only to be released after PO Vucetovic determined that he was not involved in the vehicle theft. § 87(2)(g)

BWC shows that after PO Nunez stopped § 87(2)(b) PO Tedaldi grabbed § 87(2)(b) by each of his upper arms and brought his arms behind his back to handcuff him. § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 16).

- § 87(2)(b)



- Police Officer Dino Vucetovic has been a member of service for eight years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- Police Officer Allen Tedaldi has been a member of service for eight years and has been a subject to one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- Police Officer Anelsy Nunez has been a member of service for seven years sand this is the first complaint to which she has been a party.

#### **Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
- As of October 26, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (Board Review 17).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### **RPBP History**

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad No.: 1

Investigator:	<u>Eliana Behar</u>	<u>Inv. Behar</u>	<u>04/08/24</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Mgr. Joy Almeyda</u>	<u></u>	<u>04.08.2024</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date